

REMARKS/ARGUMENTS

I. Status of Claims

Claims 1-20 are pending.

Claims 1-16 have been rejected under 35 USC § 102(e) as being anticipated by Meier, et al. (U.S. Publication 2004/0103282 A1).

Claims 17-20 have been rejected under 35 USC § 103(a) as being unpatentable over Meier, et al., in view of Toyoshima (U.S. Publication 2002/0080741 A1).

These rejections are respectfully traversed and reconsideration is respectfully requested.

II. Claim Rejections under 35 U.S.C. §102(e)

In the subject office action, claims 1-16 were rejected as being anticipated by Meier, et al.

Claims 1, 5, 9, 13 and 17 all include the feature that an access point (AP) nonce is defined as the nonce of the AP. This limitation has been the focus of a series of Office Actions and Office Action Responses. In the current Office Action, the Examiner noted “[i]t seems as if the applicant means to say that the AP nonce is originated from the AP nonce [*sic*], however the claims do not recite such limitations.” *Office Action*, p.3. The Applicant agrees that the claims do not require the nonce to originate from the AP. Rather, the Applicant has argued and continues to assert that Meier et al. fail to teach, suggest, or disclose defining an access point nonce of an AP. In response, the Examiner has merely stated that “to the examiner, an access point nonce defined as the nonce of the AP, is a nonce which has traveled from or has traversed through the access point.” *Office Action*, p.3.

To establish a *prima facie* case of anticipation under 35 U.S.C § 102, the Examiner must identify where "each and every facet of the claimed invention is disclosed in the applied reference" *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1462 (Bd. Pat. App. & Interf. 1990), see also *Electro Med. Sys. S.A. v. Cooper Life Sciences*, 34 F.3d 1048, 1052, 32 U.S.P.Q.2d 1017, 1019 (Fed. Cir. 1994). Further, anticipation requires that each claim element must be **identical** to a corresponding element in the applied reference. *Glaverbel Société Anonyme v. Northlake Mktg & Supply, Inc.*, 45 F.3d 1550, 1554 (Fed. Cir. 1995) (emphasis added).

The Examiner's rejections are deficient for at least the following reasons. First, the Examiner has never identified where Meier et al. teach the step of defining an access point nonce of an AP. As stated *supra*, to anticipate the reference, Meier et al. must teach the identical claim element of defining an access point nonce of an AP. A nonce which is merely transmitted through an AP is not identical to the claim limitation, and therefore, fails to anticipate the claim. If I were to send an email through an access point, would the email be defined as an access point email of an AP? Such an assertion is without merit, the AP is merely a means of transmission.

Second, the Examiner relies on "a broad reasonable interpretation" of the claimed limitation, and argues that "to the examiner, an access point nonce defined as the nonce of the AP is a nonce which has traveled from or has traversed through the access point." *Office Action*, p.3. In relying on this statement for the rejection, the Examiner is implicitly equating the limitation "defining" with "traveling from or traversing through." Such an interpretation of the term "defining" is anything but reasonable. In construing the meaning of the claims, resource may be given to extrinsic evidence such as dictionaries. *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005). Looking to the Merriam-Webster Unabridged Dictionary and Webster's Encyclopedic Dictionary of the English Language, 1996, the term "defining" has the following meanings:

- to explain or identify the nature or essential qualities of;
- to fix, decide, or prescribe, clearly and with authority;
- to mark the limits of : determine with precision or exhibit clearly the boundaries of.

The Applicant fails to see how "a nonce traveling from or traversing through an access point" is a broad reasonable interpretation of "defining an access point nonce of an AP."

It is respectfully submitted that nowhere in Meier, et al., is any nonce of any type defined as the nonce of an access point—not by the subnet context manager or the access point itself. As the Examiner admits, the nonce in Meier, et al.'s system has simply passed through the access point. It is not defined as the nonce of the access point. Furthermore, any assertion that a broad reasonable interpretation of "defining an access point nonce" is equivalent to "a nonce traveling from or traversing through an AP," must also fail for the foregoing reasons. Accordingly, for at

least these reasons, Meier, et al., does not anticipate Claims 1, 5, 9, and 13. Accordingly, these claims are allowable.

Claims 2-4, 6-8, 10-12, and 14-16 depend on Claims 1, 5, 9, and 13, respectively, and therefore, they are allowable for at least the reasons Claims 1, 5, 9, and 13 are allowable.

III. Claim Rejections under 35 U.S.C. §103(a)

In the subject office action, claims 17-20 were rejected as being unpatentable over Meier et al. in view of Toyoshima.

Claim 17 is directed to an apparatus that includes the feature of the AP nonce is defined as a nonce of the AP. It is respectfully submitted that Toyoshima does not make up for the lack of teaching in Meier, et al. Toyoshima, as in Meier, et al., does not disclose defining an access point nonce of an access point. Accordingly, it is respectfully submitted that Claims 17-20 are also allowable.

IV. Conclusion

In view of the foregoing, Applicants submit all pending claims, specifically, claims 1-20, are in condition for allowance. The Examiner is invited to call the undersigned at (503) 796-2408 regarding any inquiry concerning this communication. Issuance of a Notice of Allowance is respectfully requested.

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,
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